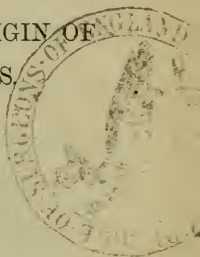


GRADUATION

UNDER

THE MEDICAL AND SCOTTISH UNIVERSITIES ACTS

WITH SOME ACCOUNT OF THE ORIGIN OF
UNIVERSITIES AND DEGREES.



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ETC. ETC.

C EDINBURGH:

ADAM AND CHARLES BLACK.

1861.

THE following observations on the changes occasioned in the nature, requirements, and privileges of Medical Degrees in Scotland, by the "Medical Act," and "Universities (Scotland) Act," of 1858, were delivered in a lecture to the Medical Students of this University on 13th April last, at the request of the Medical Faculty. By farther desire of the Faculty the lecture is now published. It has been slightly extended here and there in these pages ; but without being essentially altered in any respect. The new matter added will be found principally in the Notes at the end.

EDINBURGH COLLEGE, *June 1, 1861.*

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GRADUATION UNDER THE MEDICAL AND UNIVERSITIES ACTS.

A LECTURE DELIVERED TO THE STUDENTS OF THE
UNIVERSITY OF EDINBURGH.

I APPEAR before you to-day, by request of the Medical Faculty of this University, to discharge towards you an agreeable, but not very easy duty. It is their wish to make you acquainted with the present and prospective position of the Medical School of the University, under late important changes in the medical institutions of the country :—To explain in what manner our medical students, candidates, and graduates are affected by two Acts of Parliament passed in the year 1858,—which will be long famous in the history of medicine in Britain,—the one Mr. Walpole's Act "for regulating the qualifications of Practitioners in Medicine and Surgery," the other Lord-Advocate Inglis' Act "for the better government

and discipline of the Universities of Scotland, and improving and regulating the course of study therein.”

The task I have undertaken has been made needful by the doubts which you and many others have naturally felt regarding the provisions of these Acts, as administered by the Ordinances of the General Medical Council of the nation on the one hand, and by those of the Scotch Universities’ Commissioners on the other,—doubts inseparable from such complex statutes and ordinances, but deepened by unavoidable ignorance in many quarters, and by considerable misrepresentation in others. And the task has been devolved on me, not only as senior member of our Medical Faculty, but also as a witness and actor alike in ‘University and in Medical reform for full thirty years, and as being more familiar than any other with their history, in consequence of having been charged for a long period with University interests in both measures.

My lot indeed may be said to have been cast in some degree with both from their very birth. The first event in medical reform, the passing of the London Apothecaries’ Act, happened in the same year in which I commenced the study of medicine ; and the first dissensions between the municipal patrons of our University and its Academic Senate,—the pri-

mary root of the late Scotch Universities' Act,—arose immediately after my admission to the Professorship of Medical Jurisprudence. On both occasions reform set out in a wrong direction. The Apothecaries' Act founded a new, wide-spread, unbearable monopoly : dissension in this University between its Senate and its city rulers led at first to its entire constitution and affairs being trampled under the feet of a burgh magistracy.

THE MEDICAL ACT.

The London Apothecaries' Act of 1815, though it may be truly called the first event in medical reform, was not the first step in that direction. Itself more than anything else required reform. It was indeed the first cause, and occasioned the first call for reform. In truth, at that time there was otherwise no serious call for legislative medical reform in this country. Graduates complained that the London College of Physicians of the day would not admit to the Fellowship any one who was not a doctor of Oxford or Cambridge,—unless indeed by rare grace, and in favour of reputation so eminent that the boon brought more honour to the giver than to the receiver. Well-founded murmurs too were

often heard against certain Universities in Scotland, from which a medical degree could be had by anybody for a private certificate of character and a fee. Moreover the several medical bodies of the empire from time to time charged one another with undue laxity of examination, and not always without good reason. But there was no medical grievance so great as not to admit of being put down by the mere force of public and professional opinion. Most of them have in fact thus disappeared without any legislative aid—the London College of Physicians in particular having long ago opened its doors with great liberality to all British graduates on the same footing—and even the laxity of the minor Scotch Universities having already undergone material abatement, before the present Scottish University Commission was appointed.

But the passing of the Apothecaries' Act established another grievance, altogether new, sweeping in its sway, and not to be reached by public opinion. Nevertheless the most essential provision of this Act is said to have been an interpolation, unpremeditated, accidental almost, the tendency and force of which were not appreciated for some time, even by the Apothecaries' Company themselves. Their great aim was to cripple the rising trade of pharmaceutic

chemists, who were threatening to carry off by degrees a large share of that part of the English apothecaries' profits, which depends on the sale of drugs. The chemists however defeated their rivals before Parliament, obtaining exemption from the operation of the Act as originally framed. But the apothecaries made up that loss, and much more, by securing clauses, not originally contemplated, which put them in exclusive possession of all that vast field of general medical practice in England, known emphatically by the name of apothecaries' practice, and distinguished by the practitioner's remuneration for medical advice being drawn very much from drugs, supplied by himself to his patients at quite a fancy price over their actual cost.

It is understood that the Apothecaries' Society did not discover for a few years the value of their new possession. At first the most they were to make of it was to drive away quacks, or, as they were called in polite language, irregular practitioners. The quacks however were generally too wary a brood. The persecution of them proved a rather costly and unproductive calling. But meanwhile it was seen that the powers hitherto put in force against them were fully more available against a totally different and much more formidable class of rivals—

men who had long followed their profession undisturbed in England, with Scotch and Irish medical qualifications—regularly educated surgeons and graduates—men, as a class, ahead of the apothecaries themselves in medical attainments. Threats at first, and prosecutions afterwards, betrayed the policy, that the new possession of the apothecaries was to be a well-preserved manor, on which no poaching of any kind was to be allowed. Sundry Acts of the Legislature, relative to wholly different subjects, in laying down the qualifications for medical offices, recognised the new right, and thus incidentally served both to strengthen and to extend it. At the same time, to their credit be it said, the apothecaries zealously proceeded to raise their education, and so make their successors worthy of the rich gift unwarily bestowed upon them.

It was now high time to stop their progress. A few years more, and medicine, as practised in England, would have become nothing else than a profession of apothecaries, with a few consulting physicians and consulting surgeons. Medicine would thus have been irredeemably linked to a trade, its scientific character endangered, its rank among the learned professions lowered, its respect in society wounded.

The schools, universities, and licensing corpora-

tions of Scotland and Ireland were the first to descry this danger ; because the public danger was not so immediate and pressing as their own. Fortunately their interests and those of medicine in Britain were thus the same. Crowds of their graduates and licentiates had hitherto practised their profession in every county of England without hindrance, but were about to be forbidden by the administrators of the Apothecaries' Act. Of all these bodies none had so deep a stake in the contest as the University and the Royal College of Surgeons of Edinburgh. They accordingly threw themselves into the breach, and for many years defended it hand in hand together.

Now began in earnest the strife for medical reform. In 1826 a bill promoted by the apothecaries for consolidating their powers and privileges was thrown out of the House of Commons. In 1834 a laborious inquiry by a select committee of the House, under the chairmanship of Mr. Warburton, unfolded every grievance, but failed to bring forth any practical result except the Anatomy Act—a great boon undoubtedly to both the public and the medical profession, and for which we ought never to forget our debt to the chairman of that committee. In 1845 Sir James Graham, then Home Secretary, took up strenuously the cause of medical reform, having

been moved thereto by an able article on the subject in the *Quarterly Review*, known to have been written by no less an authority than Sir Benjamin Brodie.

After bestowing uncommon pains to reconcile the conflict of opinions and interests with which he had to deal, Sir James introduced for the first time into the House of Commons a "Medical Bill." But forgetting the stale proverb as to the fondness of our profession for disagreement—losing sight of the fact, that scarcely ever was an important parliamentary measure carried, unless in the teeth of a strong dissenting minority of those affected by it—he delayed to press his bill, in the vain hope of gaining the concurrence of the profession at large, and of the numerous medical bodies concerned in the provisions of the bill. But in spite of his efforts their dissensions grew with time, instead of diminishing. Meanwhile political troubles, and changes of Ministry, broke in upon his undertaking; and the best measure of medical legislation ever yet matured was allowed to vanish.

In 1848 another Select Committee, under the chairmanship of Lord Advocate Rutherford, made a second long inquiry into medical grievances. This inquiry however led to no practical result. Next came the Crimean war; which so engrossed men's

minds, that the general attention was withdrawn for a time from many other improvements in civil polity, besides medical reform. But with the return of peace the tide turned, and with increased force. The zeal for drawing Medical Bills became an epidemic. The British Medical Association tried its hand. The Medical Corporations made trial of their skill. On behalf of the Universities of Scotland, some of their members followed the example. Individual members of Parliament were seized with the prevailing mania.

There was now an end to all concert among the medical institutions of the kingdom. Two opposing parties arose of nearly equal strength—the Universities, and the Incorporated Colleges—the one consisting of the whole medical corporations, the other of all the Universities which have medical schools. The Universities called, and strove, for equality of rights of practice to all, Universities and Corporations alike. The Corporations too had liberty on their lips; but did not shew it always in their deeds. For they fought to the very last to make the medical degrees of Universities mere titles of honour, conveying no right whatever of practising any branch of the medical profession.

In this entangled shape, Medical Reform fell into the hands of Mr. Walpole, when Secretary of State

for home affairs. He seized at once the necessities and difficulties of the case. Adhering with steady purpose to a few plain fixed principles—which every one else professed, but without always following them—and the chief of which were the winding up of monopolies, a uniform education, and a fair field for every educating and licensing medical institution,—Mr. Walpole gained the ear of Parliament, and carried the Medical Act of 1858, with general agreement in the main, but not without vehement opposition in sundry quarters on the details.—Let us see what we have got by it.

1. We have got for the government of medical affairs a National Medical Council of 24 members, nominated partly by Universities, partly by Corporations, partly by the Crown.

2. We have got a Register of lawfully qualified practitioners ; and if any such person do not find himself there, it is his own fault.

3. We have in The General Medical Council a body appointed to keep the Register pure ; to say who has a right to admission, and under what title. In this line of duty the Council has already shewn itself powerful to keep out quacks, to punish impostors, and to curb unfounded claims by the constituted medical bodies. In the same branch of duty

however, it narrowly escaped a great danger. At the eleventh hour, a few words, interpolated without warning in a clause of the Act, would have made it the duty of the Council to pronounce categorically in the Register what branch of the profession, and, it might be, what branch alone, each member of it had a right to exercise, according to his "Qualification," *i.e.* the legal force of his diploma from his University or Corporate College. The Council has good cause to thank those who descried that interpolation, and got it struck out at the very last moment. For it would have forced the Council to draw a sharp, irritating definition of different modes of practice, which can never be separated practically. It would have made this body the judge of most important legal questions as to rights of practice, which a court of law alone could satisfactorily settle. It would have put into the hands of a bare majority of the medical establishments of the country the power of exercising a grinding tyranny over the remainder. I leave it to you to judge what a pandemonium this bone of contention would have made of our National Medical Council, had it escaped notice and been left in the Act.

4. We have got the local privileges of practice of all our medical institutions widened, from a right over one division of the kingdom, or a district of a

division merely, to a similar right over all Her Majesty's dominions. But the Act does not, and the General Council cannot, otherwise alter, or in any way settle, the legal force of the testimonials granted by these institutions. The legal value of each stands as to kind exactly as it did before the Act; and if that value be disputed, the parties concerned must go before the courts of law to have it settled, and not before the General Council. At least the Council would be unwise to allow itself to be involved in such a question. This is a point very generally misunderstood; but the Act leaves no room for doubt about it. The case would have been otherwise however had the Legislature passed by the interpolation which has already been alluded to.

5. We have got a legislative discouragement of quackery. We cannot indeed with the Medical Act put down quacks summarily, as many hoped to do. But it is a discouragement, that no such person dare call himself by any of the numerous professional titles which denote a regular practitioner qualified to be registered. There is a doubt about one title being guarded thus against usurpation and disgrace; and, strange to say, that title is the highest and most honourable that any of us can win. For some law decisions in the inferior courts of England

tend to the conclusion, that if a quack do not call himself Doctor of Medicine, in so many words, but simply Doctor, he may do so, and under that cover practise our profession as much as he pleases, without coming within reach of the Medical Act. Let us hope, for the credit of the law itself, that an interpretation involving such an absurdity, will prove false when tested before a court of better authority. But if not,—if the law in its administration should tread so gingerly upon the toes of quacks, and so roughly upon the spirit of a statute, I imagine the legislature will not hesitate to clear up the Act by declaring, that when a quack actually practising physic, calls himself Doctor, he means what he does mean, Doctor of Medicine, and that he shall not make use, unharmed, either of the longer or shorter title.

6. We have got in the Medical Council a Council of Education. Here the legislature has shewn great caution in granting authority. The Council cannot enforce directly by ordinance any course of medical study or examination for any medical title. It may recommend one ; but that is all in the first instance. Its recommendation may acquire the force of law—but only through intervention of the privy-council ; by which, on complaint by the Medical Council, it may be found and declared, that the education or

examination of any licensing body is defective, and that its license accordingly shall not entitle the holders to registration until the fault be mended. This is a roundabout process, and may prove costly. It is to be hoped therefore, that the Medical Council will wield its power in governing education with a wariness proportioned to the jealousy with which that power has been intrusted to it. The educational function of the Council is confined by the Act also in another direction. On a hasty view, one might think that the Act conveys a comprehensive power of ruling, in the circuitous way described, the education suitable for each particular name in the medical profession—apothecary, licentiate of a surgical college, licentiate of a medical college, fellow of a college of surgeons, fellow of a college of physicians, master of surgery of a university, bachelor of medicine, and doctor of medicine. But it is not so. The legislature has evidently been jealous of a too active interference on the part of the Council,—and not without reason, looking to its composition, and the feuds among the medical bodies represented in it. The Act therefore simply empowers the Council to see that the course of study and examinations for every qualification are such “as to secure that the persons obtaining it possess the requisite knowledge

and skill for the efficient exercise of their profession.” [Sec. 20.] These are the only words in the Act which convey the power to dictate requirements for any diploma of qualification. The Act thus enables the Council to see, that if a man’s qualification give him the right to practise surgery, he has had an efficient education and examination in surgery—if physic, in physic—if both physic and surgery, then both in physic and surgery. Take the common case of one who obtains the License of a college of physicians, and also that of a college of surgeons. The Council has to see, that the education and examinations of the colleges give him “knowledge and skill” enough in physic and in surgery for securing the “efficient exercise” by him of these two branches of the profession. But that is all. For example, should the same person desire afterwards to take a higher title than the simple license—such as the Fellowship of one of the colleges—the Act does not warrant the Council to say to the college, “This man has been hitherto fit for the efficient exercise of the profession of physic and surgery, but he is so no longer, in spite of his greater experience : your college ought to have required of him this, that, and the other additional study : not having done so, he is now unfit for the efficient exercise of his profession.” That would be

little else than a *reductio ad absurdum*. But there is no other way in which the Council can interfere. In fact, to the college itself that grants the fellowship it is left, and prudently left, to say whether any, and what requirements—additional to those which the Act secures for all practitioners possessing fitness for the efficient exercise of their profession—shall be demanded of candidates for the fellowship of the college. And so too, should the college licentiate desire to possess rather a University honour, than a college fellowship,—it is for the university, checked by its own supreme authority, but not for the Medical Council, to say what requirements, additional to the demands of the Act for simple competency, shall be exacted of the candidate. Or, suppose a man chooses to qualify himself for medical and surgical practice from the first, by acquiring University titles, such as those of bachelor of medicine, and master of surgery, the Medical Council is entitled to see that he is educated and examined competently “for the efficient exercise of his profession.” It is not entitled to say that these are higher titles, and that on this account he must be more than competent for the efficient exercise of medical practice. That is for the Universities, if they see cause. Neither, should he purpose to go forward for the subsequent degree of doctor of medi-

cine, is the Council empowered on that account to say what other requirements are to be demanded for that step. It could do so only by holding him incompetent now "for the efficient exercise of his profession,"—after having, by registering him as bachelor of medicine and master in surgery, declared him to be competent.

Either this is the sound view to be taken of sect. 21 of the Act; or the medical profession is a different profession according as it is practised by a licentiate of the incorporated colleges,—by a bachelor in medicine and master in surgery of the Universities—by a Fellow of a Corporation—and by a University doctor. But the Act neither establishes nor acknowledges any such difference. As little does there exist, in the actual kinds or modes of practice known among us, any difference corresponding with these several designations. The only really known shades of practice are—1. That of General Practitioner, more or less wide in his range, that is, without or with pharmacy, with or without midwifery, but always embracing surgery as well as physic; 2. That of Consulting Physician, confined to physic; and 3. That of Consulting Surgeon, who, nominally surgeon alone, borrows as much of physic as he can. These shades of difference in our profession bear no precise relation

to the several titles got by diploma ; neither are they established by any separate peculiarity of legal qualification, but simply by the particular talent, or bent, or experience of the practitioner, and by the will of the public.

Such are the gifts offered us by the Medical Act. Many professional men seem to look on them as no great boon. Some think there ought to have been a heavier rod for the chastisement of quacks. Some would have liked a rod of correction for quackery in the regular profession ; instead of which sect. 23 was expressly thrust in for nursing that evil. Some would have relished for the Council a wider and more straightforward rule over medical education for every variety of professional title. But Parliament in its wisdom has seen fit to limit power significantly in all these directions. It is unmistakeably the duty of all of us to submit to that limitation, to take the Act as it stands, and to work it in the spirit in which it has been framed. And for my own part I am satisfied, that if all do so, from the General Medical Council downwards, proceeding, as heretofore, with wariness, forbearance, and yet with determination, the Medical Act of Mr. Walpole will in time prove a great benefit to medicine, and a great advantage to the public.

UNIVERSITY PRIVILEGES UNDER THE MEDICAL ACT.

The preceding remarks must have already made you aware that the Universities have close relations with the Medical Act. Without a doubt it ought to influence them for good,—for their own good, as well as that of the nation so greatly concerned in their welfare. But it was well nigh proving otherwise.

Not long before the passing of the Act the incorporated colleges spread abroad the dogma that University degrees in medicine are in Scotland, and ought to be, mere honours, not carrying with them, like corporation licenses, any right of medical practice. This dogma was dangerously patronized by one or two parliamentary notorieties, and was even admitted to govern more than one medical bill brought into the House of Commons. But the corporation theory met with little countenance from Mr. Walpole; whose leading principle in framing his Act was a fair field for every medical institution in the country. The corporations nevertheless had weight enough to obtain, almost at the last hour, the interpolation already mentioned, by means of which Universities would have been grievously trammelled by the Act, and could not have been set free without wearisome, costly, and doubtful law-suits. But this contrivance

also failed, through vigilant watching on the part of the friends of the Universities.

One other source of trouble to the Universities—whether put in by accident or design I know not—escaped notice, and forms a material feature of the Act. By sect. 31 every registered person “shall be entitled, according to his qualification, or qualifications, to practice medicine or surgery, or medicine and surgery, as the case may be, in any part of Her Majesty’s dominions,” etc. To a common eye this provision means, that if a man with a single professional title be thereby legally qualified to practise medicine in its limited sense, he shall be entitled to do so throughout the British dominions,—if surgery, surgery,—if both medicine and surgery, then both; and also both if he has two separate titles, each qualifying for one of the branches. It is understood however, that eminent law opinion has ruled it otherwise,—namely, that no one can henceforth acquire the legal right of practising both medicine and surgery, unless he have two qualifying titles, one for each branch. If this be a correct reading of the Act, the Universities of Scotland, whose graduates had long practised both branches with the single qualification of doctor of medicine, were thus seriously threatened. We shall see presently how they have

been defended. But in the first place let me take leave of the Medical Act, by putting before you what it has actually done for the universities.

It has taken away certain monopolies of medical practice which prohibited Scotch graduates from following their profession in various parts of the empire, even in one district of Scotland itself. It has stretched their right of practice over the whole British dominions. It has done something towards clearing up the nature of that right. It has established in the Medical Council a court which can to some extent enforce equal requirements for degrees in all the Scotch universities. But much in these last two respects, and in others everything, have been left undone by the Medical Act ; and these are to be accomplished by the Act "for the better government and discipline of the Universities of Scotland."

THE UNIVERSITIES ACT.

The Universities Act, like the Medical Act, had its source in a false move towards reform.

The University thus operated on was our own. The University of Edinburgh happened to have a very odd constitution. There was nothing like it in the whole universities of the world. Its supreme head and

authority in all things was a Burgh Magistracy, which actually, and I suppose rightfully by charter, claimed to be the University. This anomaly however had been long lost sight of, in consequence of university rule having been left by the city magistracy substantially in the hands of the Professors, as the Academic Senate, for a full century. Harmony prevailed everywhere. During that period, and especially the last fifty years of it, the University of Edinburgh reached to a wonderful height of prosperity and renown ; for which it was indebted mainly to the eminence of the Professors, the government of the Senatus, and the forbearance of the Town Council.

But a sad change befel at the close of the first quarter of the present century. The Senate having shewn a blameable slowness to add a rising branch of medical study to the curriculum for graduation, the professor concerned appealed to the Town Council, as the only body then existing in the shape of a University Court. In the meantime the Senate, revising its whole medical regulations, with the help of a good deal of new blood in its composition, added this branch of medicine, along with several other new branches, and also an additional year, to the required course of study. According to usage however, it exempted from every new requirement candidates

who had begun their medical studies before the announcement of the new rules. All fair ground of procedure on the part of the Town Council, in the particular case against the Senatus, was thus put an end to. But they had got a glimpse of power ; and they would have it,—“ *quocunque modo*.” They pitched upon the exemption clause for the point of attack ; singled out midwifery from all the proposed additions ; demanded that the requirement of that subject, and of it alone, should take effect on all candidates from that moment ; and on their demand meeting with a denial, dragged the Senate on that paltry arbitrement through a tedious and costly lawsuit,—in which they succeeded, regaining over the Senate a power amounting to despotism.

The first incident of strife, a formal Act of Visitation by the Town Council in their robes, and attended by the insignia of office, on November 10, 1825, put an end to the harmony of one hundred years.

It would be alike irksome and out of place, were I to detail here the successive encroachments and intermeddlings of the Town Council during the next thirty years. The extent of damage thence arising can never be fully known, but was visible enough in some quarters. In one particular direction the result was painfully clear to myself and my colleagues.

The irritating intermeddling to which the Senate was exposed in all its affairs, created an indifference about them which by degrees broke utterly the academic spirit of the body. Many of its members, one by one, deserted its meetings. Due attendance for the despatch of necessary business was with difficulty secured. Some even murmured their forebodings that the Senate would speedily break up altogether.

But deliverance came at last. The Senate of the University saw from the first the disastrous prospect, resisted at law the conclusions of the act of visitation, and applied to the Government for succour. Accordingly, a Royal Commission was issued in 1826, to inquire into the condition of the whole Scottish Universities ; others of which, besides our own, required reform, though on other accounts.

This Commission, composed of men high in rank, or eminent in their profession, and known for their love of learning, brought out in 1831 a voluminous and painstaking report—upsetting much that was wrong—replacing it with much that was new, but not always right, in a Scotch university system—and, among other benefits, destroying the university government of the city magistracy.

The report was never carried into effect. Of all

the good fruits it promised to bear, the University reaped not one, except the chair of surgery ; and that sprung out of a mere accident not worth mentioning here. The commissioners' report had nothing to do with the foundation of that chair, farther than that their approval was appealed to, in a question as to which no two men could conscientiously come to two opinions. But the report was full of blemishes, real or imaginary, in our University system of teaching and graduation ; thus it became a rich mine of reference for the jibes and sneers of all our adversaries ; and well has it served that purpose for a period of thirty years.

In 1835 a Parliamentary Commission, originating in the Act for reforming the Burghs of Scotland, incidentally made a second inquiry as to university subjection to a burgh magistracy. Though composed entirely of lawyers on the Liberal side of State politics, and entertaining therefore a natural fellow feeling for the very liberal Town Council of Edinburgh, this Commission went farther than that of 1826 ; for it advised the severance of the University from burgh rule, both as to patronage and government. Nothing however came of their report, save a sad exposure of misrule and unfitness on the part of the then heads of the University. The fact is,

that successive Governments appeared to think themselves too feeble in Edinburgh for their friends to risk the displeasure of the Town Council. But both parties in the State were wrong. The Liberal side was far too strong in this city to be so endangered ; their opponents far too weak for the question to be one of any moment to their strength ; and both over-rated the political power of the magistracy or its individual members.

At length in 1857 it began to be rumoured that a Liberal Lord Advocate was contemplating a Bill for the reform of the Scotch Universities. His hands were strengthened by a great public meeting held in the autumn of that year, as a demonstration in favour of the cause, when Lord Chancellor Campbell presided as chairman. Another change of ministry however threw the work into other hands ; for so troublesome an undertaking could scarcely succeed in Parliament unless brought in under the wing of the government. Thus it came about that the Universities' Act was carried through the Legislature by Lord Advocate Inglis ; who succeeded, not without violent opposition, especially from the Edinburgh Town Council. We can never forget the obligations due to him for his exertions in our cause. Let us also remember how much we are indebted to the in-

tentions and actual co-operation of Lord Advocate Moncreiff.

It is not for me in my present place to put before you all that has been done by the Universities Act for the University of Edinburgh. Much has been accomplished directly for the Senate as your immediate governors, and for yourselves as the students,—for the Senate, towards consolidating and extending its jurisdiction—for the students, by vesting in them the election of the Rector, and a share in the appointment of the supreme University Court. A great deal however still remains undone by the commissioners appointed under the Act to carry out its details. Till this duty be all discharged, a complete and consistent account of the working of the Act, and of the prospect it holds out to the University, cannot be given by me or any one else. But meanwhile the commissioners have advanced far in regulating those matters in which you mainly are concerned as students of medicine. To that subject let me now proceed.

The Parliamentary Commissioners had an extremely difficult question to dispose of in university medical education.

They had, *firstly*, to consider that some of the Scottish universities had held a high place, and that

of Edinburgh for eighty years a place second to no other, among the medical schools of this nation : that Scottish graduates had penetrated into every corner of the British dominions, into England, Scotland, Ireland, the Colonies, and all the public services, and were everywhere, as a body, held in respect and favour : that they had attained this position through a very simple and inartificial system of certification of study,—a single degree—that of Doctor of medicine, obtainable at an early age, and enabling its holders, in point of fact, if not always by force of law, to exercise the profession of medicine, either as general practitioners or as physicians : and thus, that the University degree might be safely assumed to have so shaped itself as to have met the public wants, and was therefore not to be lightly disturbed.

But, *secondly*, the commissioners had also to consider that, in England particularly, Doctors of so early an age as twenty-one were looked on with some jealousy in a country where Doctors of indigenous growth were few in number and much older at the period of graduation : that the general or preliminary studies of Scottish graduates were prevalently held to be inadequate ; that some university examining boards were charged with laxity, systematic or occasional—from the latter of which charges even that of

Edinburgh had not been wholly exempt ; and that therefore the commissioners had to see whether, without endangering the proved public usefulness of the universities, they could remodel graduation, improve the preparatory studies of medical students, and secure conscientious examinations, so as to satisfy all reasonable demurs.

Thirdly, they had to consider the claims, laid by extra-academical schools of medicine, to be acknowledged as competent and entitled to qualify their students for graduation in Scotland, without any strictly university education, or with a partial one only ; and they had to settle that claim without damage to the university medical schools, or the public interests.

Fourthly, they had to consider the grave question, raised by the medical corporations, and pertinaciously urged by all those of Scotland, that Scottish University degrees were mere honours, conveying no legal right to exercise anywhere, even in Scotland itself, any branch of the medical art.

And *Fifthly*, they had to settle all these matters with due respect to the existence of a co-ordinate jurisdiction, the General Medical Council, also occupied at the very same time with the reform of medical education.

Let me take up, in the first instance, the last of the inquiries here referred to ; and let us see how the commissioners have dealt with the corporation denial of the rights of university graduates. For unless the doubt as to the legal right to practise medicine be settled in favour of the universities, neither the Commissioners, nor I, nor you, need put ourselves to much trouble about the rest.

The legal rights of the graduates of Scotland depend on the university charters, and upon usage. But the charters refer for these rights briefly and expressly to the ancient Continental universities as the models on which the Scottish universities were to be constituted ; for on the continent universities had thriven for at least three centuries before the foundation of the oldest in the northern part of this island. We must look for our own rights, then, to the rights which these most ancient of all universities bestowed upon their graduates. This is a very curious and interesting study. I have been a good deal concerned in it, because it has fallen very much upon me at various times to prepare the information it yields for our law advisers and others who have had to defend our privileges against all comers.

In order to understand the rights of graduates, we must know how Universities and Degrees arose.

ORIGIN OF UNIVERSITIES.

A great many writers in modern times have made inquiry into the history of the old model universities of Europe. Distance of date and scanty records throw a shade of doubt over their origin and their early rights. But the very shade in which they arose is in itself no feeble support of the opinion which the majority of authors have upheld. For it is generally agreed that the famous early universities sprung up quite apart from State authority or Monarch's command, by a spontaneous assembling of teachers and students; who made their own laws, framed their own constitution, and acquired consuetudinary rights, long before any state interference. In short, the whole frame-work and privileges of these universities were in the beginning consuetudinary, and not the gift of charter or statute. Such in particular seems to have been the case with three of the oldest of them, Bologna, Paris, and Salerno.

With that of Salerno we are especially concerned, because it was long a purely medical school—the earliest of all, and apparently the first to confer medical degrees. It is considered to have had its origin in the tenth century. There are traces in history of a monkish school of medicine at that time

in the neighbouring monastery of Monte Cassino, if not at Salerno itself. A narrative, written within fifty years of the event, in an extant chronicle of the monastery,* by *Leo Marsicanus*, one of its brethren, afterwards Cardinal Bishop of Ostia in 1101, ascribes the development of the school to one Constantine, a Carthaginian ; who, after enriching his mind with the medical lore of Asia by many years of eastern travel, and being in peril of his life among his countrymen as a necromancer, fled to Italy, took refuge at Salerno, joined the medical school there soon after 1050, and attracted crowds of students from all quarters. It is idle to treat as a mere tradition an incident so authenticated. But let it be so, as some represent. There is at any rate no other tradition extant ; nor any other information as to the origin of the old and once far-famed Schola Salernitana. Its renown at this early date is confirmation strong that even then it was not a young school. Of its renown in the eleventh century there can be no doubt. At that period it attracted Franks, Greeks, Jews, and Saracens alike, who were all taught there in their own native tongues. Its fame indeed was so great, that at the

* Contained in *Muratori's* great work, *Rerum Italicarum Scriptores*, etc. vol. iv. 455, A to D, 1723. *Chronicon Monasterii Casinensis*. See Note A, at the end.

close of the same century, its doctrines were promulgated in the form of the famous poetical “*Præcepta Scholæ Salernitanæ de conservandâ bonâ valetudine.*” We have also direct testimony in its favour by a remarkable man of the subsequent century, Romualdus Guarva, Archbishop of Salerno from 1157 to 1181, and himself apparently also a physician of the Salernian school, who in his *Chronicles*, when noticing the siege and capture of the city in 1075 by Robert Guiscard, Duke of the Normans, says, “*Obsedit Salernum, civitatem medicinæ utique artis diu famosam atque præcipuam.*”* Similar testimony is borne by an actual contemporary of that famous warrior. *Ordericus Vitalis*, writing in 1059 of a monk Rodulf, famous for his scientific acquirements, says he was so skilful a physician that, when he visited Salerno, he found no one equal to himself except a certain learned lady, “*in urbe Salernitana, ubi maximæ medicorum scholæ ab antiquo tempore haberent.*”†

At this early period the teachers of the school were called *MAGISTRI*, masters—a name still similarly used, above all perhaps in Scotland—but in those days a formal, high, much-honoured title in Italy.

* *Chronicon Romualdi II., Archiepiscopi*, in *Muratorii Scriptores Italici*, etc. vii. 172. See Note B.

† Quoted by *Bulæus*, *Hist. Univ. Parisiensis*, i. 478.

How it came to be thus appropriated, no one now can tell. Probably convenience and common consent so settled it. As little does it now appear how the students of Salerno [Scholares], who had served their time and obtained their teachers' approval, came to be known by their teachers' title. But so it was. Probably they really were thus at first stamped as teachers themselves. But few of them would find any vocation for the exercise of that privilege. The great mass therefore had to remain content with being practitioners only. That this was the probable way practitioners were denominated "magistri," is confirmed by the fact that simultaneously the teachers came to be distinguished by the title "magistri legentes."

But all these incidents occurred without any legal foundation or government authority. They arose by chance arrangement, as it were ; just like the school itself. For, according to all antiquarian research, no vestige occurs of the state having recognized Salernian teaching, or sanctioned Salernian certificates of study, so early as the eleventh century. The first extant notice of such recognition dates in the next century, about eighty years after the arrival of Constantine at Salerno. This recognition is significant, as shewing what it found pre-existing. Roger, first king of

united Sicily and Apulia (Naples), issued a decree in favour of the school in 1140—viz., “that its own statutes should have the force of law”—“*præcepit ut constitutiones suæ legis vim haberent.*”* What these *constitutiones* or statutes were, it is impossible now to learn precisely. They were previously consuetudinary; and they are commonly held to have been in part comprehended in a more precise decree contained among the famous statutes passed ninety years later, in the year 1231, by King Roger’s grandson, the Italian emperor, Frederick the Second.

Having consolidated the schools of Naples into a new university seven years before that, and being much attached both to it, and still more to the pre-existing school of Salerno, Frederick treats them both in his statutes with great favour, but especially the earlier and self-established school. He orders, that “no one pretending to the title of physician shall practise or cure unless, first approved at Salerno by a decision of *magistri* at a public sitting, he shall present himself, with letters-testimonial as to his trustworthiness and sufficient skill from the *magistri*, as

* *Ackermann. Regimen Sanitatis Salerni*, etc., 1776, p. 42. This writer refers for his authority for the statute to *Giannone, Istoria Civile del Regno di Napoli*, 1723, i. 188. But I cannot find exactly that statement of it in *Giannone*.

well as our officials, before ourselves, or, in case of our absence from the realm, before our vicegerent, and receive from us or from him a license to practise.”* And again he ordains, that “no one shall teach medicine or surgery except at Naples or Salerno, or take the name of magister unless he has been diligently examined in presence of our officials and the magisters of the art.”†

From these statutes it appears that he found Salernian physicians teaching [magistri legentes], and others merely practising medicine [magistri]; that he sanctioned the profession of both by prohibiting any others from teaching or practising except the magistri of Naples and Salerno; but that he retained a double, though probably only a formal, check on these privileges, by attaching the condition of the concurrence of officers nominated by himself, and the issuing of a royal license. Even these checks were ere long withdrawn. It is also considered that Salerno now first became a university, or chartered corporation, and the designation “magister,” a privileged title or degree. But both the university and

* *Constitutiones Regni Siculi*, tit. xxxiv. 2, in *Paulus Canciani, Barbarorum Leges Antiquæ*, etc. 1781, i. 367. See Note C.

† *Paulus Cancianus*, ut supra, tit. xxxiv. 4. See Note C.

the degree pre-existed, with *de facto* consuetudinary rights, which the monarch simply adopted, legalized, and checked.

In their origin and early progress, the Universities of Bologna and Paris agree so closely with that of Salerno, that I may dispose of them both in a few words. But the subject is full of deep interest to the antiquarian inquirer, desirous of tracing the roots of institutions which are universally allowed to have exercised a signal influence on the education, civilization, and liberties of Europe.

Both Paris and Bologna have laid claim to a most ancient descent. Bologna, which was long a law school only, has tried to trace its rise to the fifth century, when, as some pretend, it was founded by statute of the Roman Emperor Theodosius II. in the year 433; and a forged charter used to be shewn to support the claim to this high antiquity.* Paris, long devoted purely to theology, claims the eighth century for the date, and Charles the Great for the author, of its birth; and there can be no doubt that this monarch established in his own palace, or transferred thither what he found pre-existing in his capital, a *Schola*, which may have been the germ of

* Savigny, *Geschichte des Römischen Rechts im Mittelalter*, 1834, iii. 164.

the future University of Paris.* But a long and dreary blank follows in its history, even as minutely given by its tedious historiographer, *Du Boulay*.† And the ablest antiquarian inquirers have declined to recognize, either at Paris or Bologna, anything else than a schola, and at first a self-constituted one, till the middle of the twelfth century, when these rudiments were consolidated into universities; so that in the dates of their origin and development they correspond with the University of Salerno.

The very obscurity of the origin of these old universities is proof of the manner of it; which cannot be better given than in the words of a learned German historiographer, *Savigny*.‡ In his History of Roman Law in the Middle Ages he says:—"It would be wrong to regard the most ancient universities as teaching bodies in our sense of the word university—as institutions by which a prince or a state established education for the citizens. It was not so. But when a man, prompted by a noble zeal for instructing, gathered around him a crowd of ardent students, a succession of teachers readily arose, the

* See NOTE D.

† *Bulæi Historia Universitatis Parisiensis*, 1665. In 7 volumes folio.

‡ *Savigny*, iii., 154 and 338.

circle of pupils widened, and thus inborn necessity founded a school (iii., 154-155). * * * The universities stood quite apart, based on themselves, unconnected with a thorough constitution from the nation (iii., 156)." Monarchs found them thriving, saw their importance, took them under royal protection, confirmed their own constitutions, chartered them—but neither invented, nor in the true sense founded them. It was different with later universities founded on the same models. But the models, Paris and Bologna, were self-established.

The University of Bologna never could have received from any state or monarch, in those days of autocratic and oligarchical despotism, its singular constitution, breathing the very atmosphere of the purest days of liberty in ancient Greece or Rome. The *scholares*, or students, were the university. They elected the professors, and all other office-bearers, from the rector down to the bedel. They could be judged, if they chose, by their own rectors or professors, in civil as well as criminal cases, instead of by the state courts of Bologna, even when the other party was not a university man. They could fine their professors. They could depose their professors. A professor could not absent himself without leave obtained from the council of students,

or for more than eight days without the permission of the students' convocation itself. These and other privileges were apt to bring the *Scholares* into collision with the civic authorities of Bologna, who perpetually strove to incroach on their immunities. But when the city Council threatened to be too strong for them, they had a formidable resource, which has been adopted once or twice even in these days in German universities. The *Scholares* decamped from the university in a body—ten thousand strong sometimes—swearing never to return. But they always did return. The Emperor, or the Pope, intervened; the quarrel was made up; and the university is said to have invariably had the best of it in the settlement. We manage differently now-a-days when a university and a town council fall out. But the result is the same in the long run.

The University of Paris, in the course of its spontaneous development, arrived at almost an opposite constitution from that of Bologna. Being long only a theological seminary, priestcraft naturally kept the whole government in the hands of the priest-teachers. The professors were the corporation, and the *scholares* mere subjects in the academic state—and unruly ones they often were—but subjects nevertheless, who enjoyed some remarkable privileges

and immunities, as belonging to the academic state. These rights, arising obscurely, and probably through custom rather than ordinance, were afterwards consolidated and confirmed by statute. In the interval however they led, as at Bologna, to frequent dissensions with the authorities out of doors, especially those of the city. On one of these occasions, in 1200, the town and its mayor tried to settle the matter in the national way, by mob and manslaughter.* But on appeal to the monarch, the famous Philippe Auguste, the mayor and his myrmidons were severely punished, and the University received a royal confirmation and extension of its rights. Among these, none was more remarkable than protection of the Scholares and their servants from the jurisdiction of the ordinary magistrates and law courts, with the right of trial and punishment by judges of their own, as at Bologna.

When we turn now to Britain, we find that the two old English universities, in date and mode of origin, agree with the three most ancient universities of the Continent. Both can boast of kingly recognition early in the thirteenth century; Oxford of being mentioned as a University by King John in 1201;

* *Bulæus*, &c.—See NOTE E.

Cambridge of having received letters-patent in its favour from Henry III. in 1231. But great schools existed at both places long before. Cambridge has a tradition,—very probable, because recorded only fifty years after date by *Peter* of Blois,—that its origin was the establishment of a school by five monks, who were sent from the monastery of Peterborough for the express purpose in 1109. Oxford clearly had a school of secular canons established by the city governor, Robert D'Oyley, before the close of the reign of the Conqueror in 1087. There must have been at that time a school of note there, when William's third son, Henry, was educated at it. Oxford however claims to have been regularly founded by charter of King Alfred between 890 and 895; but there is no proof to that effect. A similar claim, but a ridiculous one, has been made in behalf of Cambridge by some old English authorities, according to Du Boulay, to both a charter from King Arthur in 581, and a Pope's bull in 424, founding a university, with all its privileges and paraphernalia, centuries before the things mentioned in the pretended deeds had existed anywhere.* The admirers of the two ancient universities seem to have lost sight of the more probable fact, that both of them had even a nobler

* See NOTE F.

origin,—the zeal of some men to instruct, and the thirst of others for instruction, who drew towards one another by a new-born instinct, established schools in a wilderness of ignorance, achieved fame for them, gained for them consuetudinary rights, and thus offered to monarchs objects of favour, which it became the peculiar honour and glory of the crown to adopt and consolidate.

The rights and privileges thus finally conferred or confirmed, in the instance of the English universities, were much the same as in the University of Paris.

The numerous universities which arose in Europe subsequently to those which had their roots in the middle ages, were established in a totally different manner. They were founded *ab initio* by charter of the monarch in whose dominions they arose, confirmed by, or confirming, a bull of the pope. The popes were much too far-seeing personages not to discover at an early period, that universities were to prove important bodies in the progress of civilization and knowledge—much too important to be left without papal interference. Accordingly the papal chair soon established a right of concurrence with the monarch in founding them. A fair ground of right could be shewn by a power which ruled supreme over the church, and whose ecclesiastical subjects were educated at the

universities. And there was also a reason why monarchs should easily acquiesce in the papal claim. A university founded by a king acquired rights for its professors and students in his own kingdom. The concurrence of the pope extended some of these rights to Christendom. Hence in Catholic times the teachers and graduates of one country were admitted on easy terms to the rights of teachers and graduates in various other countries. Governments afterwards checked this reciprocity ; but there are traces of it still. An Edinburgh graduate has merely to present his diploma to the proper authority in Paris, and he is admitted to all the University lectures, and to all the hospitals ; and he has even been admitted to practise his profession in Paris on terms by no means difficult.

The less ancient universities were framed on the model of the older ones, especially Bologna and Paris. As fortune would have it, the republican Bologna was taken for the model of the subsequent universities of Italy and Spain, and even the provincial universities of France ; while Paris became the model for those of Germany, Scandinavia, Holland, and Britain. If it be the case—which no man indeed ever doubted—that great importance must be attached to the universities as fosterers of the liberties of Europe, by educating and sending forth their most

able and energetic defenders, it is remarkable, that, wherever the academic constitution was republican and lodged with the popular body, liberty ere long fell to the ground ; and that it has been preserved in no kingdom of Europe, except where the supreme power in the universities lay with the teachers or a similar academic oligarchy.

The rights and immunities, which are more or less essential for constituting a university, are very numerous and diversified. The right of possessing a Chancellor, a Senate, and Professors ; of dividing the Professors into Faculties, with a Dean over each ; and of granting degrees to successful students in each Faculty,—these are rights so essential and inherent, that it is not easy to conceive such a thing as a University without them. A monarch, in founding a University, might limit and define the extent to which they shall be exercised ; but were he to withhold any of them altogether, he would have to call his creation by some other name. These are questions however, in most of which we have at present no interest. We are concerned, in fact, with two only—the right of conferring medical degrees, and the right of practice which those degrees convey.

ORIGIN OF DEGREES.

1. It has been already imperfectly seen how degrees originated, as one of the institutions of a university.

All good authorities agree that degrees, however they originated, were first regularly methodized at Bologna and at Paris. “Our scholastic honours have been appropriately termed degrees—*gradus*—because through their means we arrive by steps, as it were, from the lowest to the highest dignity. For as there are steps in erudition and knowledge, so is it natural that there should be also steps in dignities and honours.” So says an able writer of the seventeenth century, *Itter*, a graduate in law of Frankfurt, as introductory to the following exposition:—“Certain steps were established, which, according to the testimony of *Besoldus*, were first adopted at Paris. The first of these was called the bachelorship, the mastership the second, the licentiateship the third, and the fourth and highest the Doctorate. But it is not absolutely required, that every aspirant to the highest honour shall pass through all the lower degrees. He may arrive at the highest without passing through the stages of bachelor and master; which procedure

is called in the canon law to be promoted *per saltum*.”*

Such is graduation in its most finished form. But its origin is a matter of much obscurity. *Du Boulay*, who has gone into the whole subject with his usual laborious minuteness, takes no notice of the probably consuetudinary origin of degrees. He conjectures that they may have had their primary root in the three honours successively conferred on the Athenian academicians during their studies as scholars;† or that they had been suggested by the class names borne by the Bologna law students in their five successive years of study.‡ But he arrives at the conclusion that degrees, as now known, were first devised either by Gratiano, a famous teacher of law at Bologna in the twelfth century, or by Pope Eugene III. with Gratiano’s aid; that they were introduced by Gratiano at Bologna about 1150; and that they were thence transferred to Paris in 1152 by Peter the Lombard.§ He assigns general after-belief, but no documentary evidence of the time, for this account of the matter. Neither does he say how

* *Joh. Christ. Itteri*, *Diatriba de Gradibus Academicis*; Giessen, 1679, pp. 4, 5.

† *Δοκιμη*, probation; *Τιμη*, honour; *Τελετη*, completion.

‡ Justinianæi; Edictales; Papinianistæ; Lytæ; Prolytæ.

§ *Bulæi Historia*, etc., ii. 255. See Note G.

much Gratiano really created, and how much he may have merely found in immemorial use. Certainly two of the titles, magister and doctor, were not then new. The first extant documentary notice of our modern degrees does not occur till eighty years later, when the bachelorship, licentiate-ship, and master-ship are mentioned in a papal bull of Gregory IX. addressed in 1231 to the "Magistri and Scholares" of Paris. But they are mentioned only incidentally and as pre-existing.*

Though there were four titles, there were really but three steps in graduation. The first in order was the bachelorship. The next was the licentiate-ship. Some indeed think this title was peculiar, in as much as it conveyed a right to practise a profession— theology, law, or medicine. But this is a mistake ; it was a simple step in the scale of graduation. The master-ship and doctorate were almost synonymous. When the title "magister," ceased to denote a teacher only, and was applied to simple graduates, the professors became "doctores," or teachers, for distinction. But by and bye, as previously in the instance of the "magister," many doctors did not teach, although graduated to do so. They were complained of on that account ;†

* *Bulæi Historia*, etc., iii. 141.

† See *Crevier*, *Histoire de l'Université de Paris*, vii., 151.
See Note H.

but the abuse outlived the censure, and presently "doctor" became the simple graduate's highest title. In Paris, the professors then became, for the sake of distinction, "doctores regentes." It may be here observed in passing, that, as relics of these old customs, in the oldest Scotch University, that of St. Andrews, founded in 1411, the correct title of a professor is the oldest of all, "magister ;" and that, after the foundation of that of Edinburgh in 1582, the professors there long had the name of regents.

In some faculties of some universities, the title of doctor is not in use as a degree. In the faculty of arts, for example, that of Magister is the highest both in the English and Scotch universities ; where, I believe, there has never been a Doctor in Arts. And in German universities, when the title of doctor is given in that faculty, the designation is not "Artium," but "Philosophiæ Doctor."

Itter explains that it was not necessary to take all, or any, of the minor degrees, in order to attain the highest. The highest might be won at once, *per saltum*. This in fact is now the general rule abroad, as well as in Scotland. In Scotland the minor degrees in medicine never were made use of, until a technical legal reason, arising out of the construction of the Medical Act, has suddenly brought them into requisition.

Such then was the constitution of the various academic degrees, as finally arranged at the ancient continental universities. They might be all given in any faculty. They might be given even in a branch of a faculty. For example, a degree in grammar, or in logic, or in music, might be given in the faculty of arts; or a degree in physic or in surgery in the faculty of medicine. The conferring of surgical degrees by universities has been stoutly denied by our corporation opponents in their late attempts to prevent the Scottish universities from granting the degree of master in surgery. But the general right of universities to grant that degree as a branch of medicine is proved by irrefragable authority. Thus, we have the Italian emperor, Frederic II., in his statutes formerly quoted, plainly mentioning “*magistri chirurgiæ*,” and “*medicinæ*,” as created at Naples and Salerno at the date of his statutes in 1231, and licensed by him as practitioners.* Then we have an important statement by a good German authority, Möhsen, that there were “*magistri chirurgiæ*,” who practised surgery in Germany during the early days of the University of Salerno. “If,” says he, “*magistri in chirurgia* occur in any old German diplomas of the

* Nullus in medicina vel chirurgia . . . magistri nomen assumat, etc. *Paulus Canciani*, ut antea, i. 367.

thirteenth and fourteenth centuries, these must be regarded as physicians who had received that honour at Salerno or Bologna." [*Möhsen*, Geschichte der Wissenschaften in der Mark Brandenburg, besonders der Arzneýwissenschaft, p. 297.*] Next, it is shewn by *Riegel* in his History of Surgery,† that both doctors and masters of surgery were made at the University of Padua in the fifteenth century. "From these statements," says he, "we learn the progress of the medical art, and, which is of consequence to us, that surgery was taught as well as medicine at Padua in the fifteenth century, and that there were even doctors in surgery. For the 30th statute says that no person who is not doctor, either in surgery or in physic, shall treat any one, unless he has a license according to the present statute," p. 290. Even at Paris, where repeated broils with the craft of surgeons in the city, kept surgical graduation out of fashion, degrees in surgery were nevertheless known at an early date; for in the pleadings on occasion of one of these dis-

* Quoted by *Ackermann*, Regimen Sanitatis Salerni, p. 2. Möhsen is wrong, however, as to Bologna, where there was no medical school or faculty in the thirteenth century.

† Quoted in "Case for the University of Glasgow in Appeal before the House of Lords," 1837, p. 17. The original work seems to be *Riegel* Forsög til Chirurgiens Historie. Kiövnhaben, 1786.

putes in 1506, it was stated on behalf of the university, that "so great was the dearth of surgeons in Paris, that there were only three or four who would become bachelors and licentiates."* Coming nearer home, we find that a surgical degree is not unknown in England. For I learn from Dr. Paget of Cambridge, that the licentiateship in surgery was actually granted in that university in 1569, 1573, 1577, 1607, 1612, and 1616.† Lastly, in 1817, the University of Glasgow for the first time began to exercise the privilege of conferring on its students the degree of master of surgery, in order to defend itself against the attempts of the Faculty of Physicians and Surgeons of the same city to maintain a monopoly of surgical practice in their district. The university failed in its immediate object. The Faculty even made some empty form of protest against the granting of the degree at all. But the university has never been interrupted in this function ; some hundreds of surgical degrees have been conferred ; and we owe to that step in Glasgow the introduction of the mastership in surgery into

* "Au contract que partie a leu respond, que à Paris *est maxima penuria chirurgorum*, tellement qu'il n'en y a que trois ou quatre lesquels ont voulu faire [become] des Bacheliez et Licentiez." *Bulæi Historia*, etc., vi., 36.

† See Note I.

the Medical Act as a qualification which its possessor is entitled to register.

RIGHTS OF GRADUATES.

2. The right of professional practice exercised by university graduates will partly appear from what has just been said of the right of universities to make graduates.

In 1231 the Roman Emperor, Frederic II., passed, as we have already seen, the first known statute on this subject ; which (1) implies that masters in medicine, and masters in surgery, had been practising by consuetudinary law in his dominions ; (2) legalises that custom as a statutory law and right ; (3) confines the right to such graduates of Naples and Salerno ; and (4) makes it a condition that the monarch shall concur in conferring the right, both by his own magistrates joining in the diploma, and also by his own sanction given personally or by deputy. There was no other examination however, except the university examination. Everything else was either merely a check on the examinations, which had been charged with laxity, or more probably a legal form for keeping supreme power over all things in the realm in his imperial hands.

Accordingly we find that in universities of later foundation, the check, being considered of no great moment, though sometimes kept up, was more generally left out, by the State authority. In Naples and Salerno themselves it was withdrawn in 1365 by Queen Joanna ; who ordained that the “magistri medicinales” of that university, having received letters-testimonial of their skill from their own teachers, should practise freely their profession without any other license.* The medical degree of the University of Paris entitled its possessor to practise in every part of the kingdom. I cannot find that the right was acquired in any other way than by consuetudinary law, or that it was checked by the monarch by any direct or indirect sanction of the University diplomas. In the reformed University of France, erected after the old universities had been upset by the Revolution, the diploma is issued in the name of the Minister of Public Instruction. But this is a mere form,—which might indeed be made a check,—but practically a mere form in a process, the essence of which is the examination and fiat of the University Medical Faculty. In Prussia a check is practi-

* *Antonius Mazza.* *Historia Urbis Salernitanæ*, 1681, in Grævii et Burmanni *Thesaurus Antiquitatum et Historiæ Italiæ*, vol. ix., pars iii., p. 64, F.

cally exercised. A graduate, even of Berlin itself, cannot enter upon medical practice without undergoing a "Staats-examen," or examination on the part of the State. But that examination is conducted by Professors of the University of Berlin; no other body in the State has to do with it; no other corporation has an interest in it; the candidate is not required to enter a corporation, paying it a handsome fee,—as our corporations in this country have for some time struggled to claim as a right over all graduates of Scottish Universities. In England the right of professional practice has been exercised uninterruptedly for centuries by graduates of the old Universities. Originating probably in consuetudinary law, their rights rest on subsequent statutes which adopted that custom; and the State retains neither control nor participation in conveying the right to individual candidates.

We have here a glimpse of what has been called the "Inherent Rights" of Universities. By inherent rights are understood those which have arisen by custom, from the very nature and plain purpose of such institutions, and not necessarily at least from statute,—rights which are understood to follow as soon as a University is founded, unless specially excepted. Of these an unlimited right of graduation

is one; and the right of medical practice is another. But there may be exceptions, or conditions amounting to exceptions. Thus, the right of graduating has been limited in the charter of the University of London; which, owing to a jealousy of the legislature, cannot grant degrees in theology; and owing either to chance, or a surgical jealousy somewhere, has its graduation right so worded as to except degrees in surgery. In like manner the "inherent" right of practice possessed by University graduates may have an exception, when a special corporation has been granted a special exclusive right, or monopoly.

UNIVERSITIES OF SCOTLAND.

Let me now pass to the Universities of Scotland. After what has been already laid before you, the fixing what their rights are will not detain us long.

The oldest University in Scotland is that of St. Andrews, which was founded in 1411 by the Bishop of the diocese, under sanction of a bull of Pope Benedict XIII.; and its privileges were ratified by King James I. in 1432. That of Glasgow followed in 1450, being erected at request of King James II. by Pope Nicolas V. Aberdeen, the next in order,

was founded in 1494, at the representation of King James IV. by a bull of Pope Alexander VI. That of Edinburgh dates almost a century later, in 1582; and its founder was the scholar monarch King James VI., who, in proof of his affection, desired that it should take his name, and promised to endow it. He forgot his promise however; nor do we always sufficiently remember that our proper designation is the College of King James the Sixth. In Edinburgh we labour under the disadvantage of having only a kingly, and no papal foundation. Nevertheless, from the earliest period to the present day, our medical diploma has declared that its possessor has the right of practising his profession "*ubique gentium*."

In the foundation charters of Glasgow University no other degrees are mentioned but Master and Doctor. This is in the Pope's bull, which confers on these graduates, as well as the regents and students, all privileges possessed by those of Bologna. But the bull of Alexander VI., constituting the University of King's-College, Aberdeen, is much more explicit. It confers the right of granting the degrees of "bachelor, licentiate, doctor, and master, and any other degrees or honours, in theology, canon and civil law, medicine, and the liberal arts, as well as in any other lawful faculty, such as are

granted at Paris, Bologna, or any other privileged University.”* This grant seems quite comprehensive and particular enough to remove all cavil about University powers.

The charter of King James the Sixth in favour of Edinburgh, simply confers upon it all the privileges possessed by any other University in his Majesty’s realm of Scotland.

Therefore the graduation rights of the Universities of Scotland are the widest possible. They may make bachelors, masters, licentiates, and doctors in every and any faculty. They have a right to make masters in surgery. It has been objected that surgery is a mere branch of medicine, and that degrees cannot be given in a branch of a faculty. That objection has been disposed of by the proof that branch degrees have been often given by other universities, and among them this very branch degree in surgery. It has been on the contrary objected that surgery is a new faculty, different from medicine. This objection, if true, is set aside by the supplement, “*vel quavis alia licita facultate*,” in the charters, empowering the university to erect new faculties. But surgery is not a distinct faculty from medicine. So long

* Scottish Universities Commissioners’ Report, 1837. *Evidence*, iv. 129. See NOTE K.

ago as 1231, when Frederic II. recognized the degrees of master in medicine and master in surgery as conferred at Salerno, he says, in prescribing the education for the latter, "*ita quod chirurgiam, quæ est pars medicinæ, infra prædictum tempus addiscat.*" And again, "*Salubri enim constitutione sancimus, ut nullus chirurgus ad practicam admittatur, nisi testimoniales literas offerat magistrorum, in medicinali facultate legentium, quod per annum saltem in eâ medicinæ parte studuerit quæ chirurgiæ instruit facultatem.*" "We ordain by wholesome statute, that no surgeon shall be allowed to practise without letters-testimonial from professors of the medical faculty, that he has studied for at least one year that part of medicine which constitutes the faculty of surgery."*

In like manner, the medical and surgical degrees carry with them a right of practice. They did so in every country in which arose the ancient universities, of which those of Scotland are of the same model, and enjoy the rights by charter. It is not here meant to be alleged that the university right in this respect over-rules all statute to the contrary, and all statutory monopolies. This was the error of the Glasgow University when it claimed at law the right

* Paulus Canciani, etc., tit. xxxiv., 3, p. 367.

of licensing, by means of its mastership in surgery, surgeons qualified to practise within the jurisdiction of the Glasgow Faculty of Physicians and Surgeons. That body possessed a charter of incorporation granting the exclusive right of practising surgery in four counties. Their charter was posterior in date to the University charter; and nevertheless, while it exempted doctors of medicine from the monopoly, there was no exemption given to any description of surgeons. Possibly it might have been also found in law that Scottish graduates in surgery had no right of practice in seven other counties under the jurisdiction of the Edinburgh College of Surgeons, were it not that this College, unlike that of Glasgow, generously declined to uphold its monopoly.

The case of the graduates of Scotland stands thus. For some time after the three oldest universities were founded, there was nothing to hinder their graduates, or other graduates, from practising either medicine or surgery in any part of Scotland. The Scottish monarch, like the Roman Frederic of old, might have imposed restrictions, and annexed conditions. He did neither. But after the establishment of the surgical corporations of Edinburgh and Glasgow, graduates might probably have been prevented from practising surgery in eleven counties.

In twenty-two others however they continued always unfettered. Medicine they could always practise in the whole of Scotland ; for the right of medical practice, as distinguished from surgery, was reserved for them in the surgical charters. In point of fact, they have practised both medicine and surgery, as far back as the medical history of Scotland extends, in every part of the country, except in the district of the Glasgow Faculty, where the prohibition against the practice of surgery was actually carried into force. They practised both branches with a single degree, that of doctor of medicine, which enabled them to follow the profession either of physician or of general practitioner as they chose.—So it has long been in France.—So it has long been in Prussia. If our graduates did not possess this right originally by charter and statute—and I believe they did—they acquired it by invariable undisturbed usage, or consuetudinary law, which is as good as either charter or statute.

Such were graduates' rights before the Medical Act of 1858. That Act alters the rights only by removing all local restrictions. It declares that whatever rights any class of practitioners enjoyed before the Act in a particular country or district, they shall possess the same henceforth throughout

the whole British dominions. There is therefore great reason to believe that even a doctor of medicine of a Scottish university would be found by a suitable court of law to be entitled to practise both medicine and surgery under the notorious sect. 31, or "Double Qualification" clause of the Medical Act, if it were now worth while to raise the question.

But the Scottish Universities Commissioners have acted wisely by putting it into the power of the universities to enable their graduates, if they please, to escape that trial. Having judged it right to elevate the age and other requirements for the doctorate, they have sanctioned the minor and prior degree of Bachelor of Medicine ; and to shew precisely the nature of his requirements, studies, and examinations, they entitle him also to receive the Surgical diploma of Master. He can thus present two indubitable qualifications to the General Medical Council, the custodiers of the Medical Register, by whom both qualifications must be registered, in conformity with the Act.

Thus the new Scotch graduate may legally practise either medicine or surgery, or both, in any part of Her Majesty's dominions. You are aware that the corporations did everything in their power to prevent this consummation of medical reform. Availing

themselves of the provisions of the Universities Act, four of them petitioned the Privy Council to be heard against the commissioners' ordinances passed in our favour last July. A hearing and report by the commissioners was ordered by the Queen in council. At this hearing the petitioners undertook to satisfy the commissioners that the surgical degree was illegal, inexpedient, and without sufficient requirements in study. The commissioners, among whom were the two heads of Court, a third Judge, and the Lord Advocate, reported against the corporations on all three points. The corporations then petitioned for a hearing before the Privy Council itself. This too was granted. The Committee of Privy Council, in which there were two Chancellors, besides other lawyers, heard the case on three successive days, and decided in favour of the commissioners' report and ordinances in all points. This opposition has cost us a year's delay, and £750 of law expenses. But it has ended in confirming our privileges, bringing them out more clearly, and saving them from future dispute, to which they might probably have otherwise been exposed.

THE MEDICAL ORDINANCES.

It remains for me to make a few comments on the Commissioners' Ordinances, now the Regulations of the University for Medical Graduation.

The new regulations apply to all candidates commencing their studies in medicine here or anywhere else subsequently to February last. Others are entitled to graduate according to the university statutes in force at the time they commenced their professional studies.

The *New Minor Degrees* displace the previous doctorate, for most of its objects, for all indeed except fellowships in colleges of physicians, and physicianships in some public institutions. In Sir James Graham's Bill of 1845 the academic title was to have been a single compound one, bachelor of medicine and surgery. The double degree of bachelor of medicine and master of surgery is rendered necessary in order to meet a clumsy technicality in the Medical Act.

The next material change is an increase of *Preliminary General Education*, with appropriate examinations. It is to be observed that by the regulations as they stand, candidates will be allowed to carry on these studies, and undergo the examination on them

during their medical studies. It is undesirable however, that any one should so conduct his education, if he can do otherwise. It is impossible to rate too highly the value of a good general education, attained before the student enters on his professional studies. This is so self-evident, that in time all students will spontaneously make that order of arrangement the invariable usage. But it is obvious that an option on this point must be allowed at first, otherwise great hardship will be inflicted on some who cannot at once prepare themselves for an examination on classics, modern languages, mathematics, physics, or mental philosophy.

The *Professional Education* of future candidates remains much as it was. Practical chemistry, and six, instead of three, months of clinical surgery, are declared in the new regulations, rather than really added ; for all students here have long taken them spontaneously. I really do not know what other new subject of study could be added. The curriculum of the University of Edinburgh already includes every branch of medical science known in this country as a distinct object of study ; and some of these are required at no other British school of medicine. A show might have been made of those double and treble attendances on one or

two subjects, which figure in the statistical tables put forth by some of the licensing corporations, who boast of the extent and rigour of their demands upon the student. But this University has always gone upon the principle,—to shew the student what is wanted by requiring every useful subject to be studied once, and to leave it to his own experience and discretion to settle which of them he should repeat, and how often. We know he invariably repeats the great fundamental subjects of study, without any statutory compulsion ; and he ought to be allowed to choose for himself among the others, according to his defects, or his ultimate object in professional life. Farther, I am satisfied that some of the corporations, who license for general practice, and who boast now of their comparative demands upon the student, will find ere long that they have gone too far in shoving up their requirements.

The *Age* for the new degrees is left at twenty-one. Strenuous attempts were made to compel the University to raise it. These attempts I have always steadily resisted, and for the following reasons. I have never been able to see how a young man should be competent to prepare himself at twenty-one for the church, or for the law, or to be one of our legislators,—but quite unable to do so for the profession of

physic alone,—and only too when he prepares himself at the highest medical schools, where he obtains the best quality of medical education. Neither have I ever been able to discover why a student, whose great natural abilities or power of application enable him to attain at twenty-one that which the average of students cannot reach till one or two years later, should, in medicine alone, be prevented from taking advantage of the blessings which have been vouchsafed to him by a bountiful Providence. It is not intended by our regulations that all should graduate, or be encouraged to graduate, at twenty-one. In fact, it never has been the general practice at Edinburgh to graduate so young. Some years ago, when, as Dean of the Medical Faculty, I was intimately acquainted with the ages, and qualifications, and merits of our candidates, I found that, of 300 graduates, only a fifth part were so young as twenty-one ; but I also found that this fifth comprised three-fourths of those who had given at their examinations, and throughout their University career, the highest proofs of diligence and proficiency. The only sound argument I have ever heard on the other side of the question is, that by squeezing up the age for graduates our corporations will be gainers ; for they will catch all young men of ability able to pass at twenty-

one, and to whom it may be an object, for sundry reasons, to enter early upon professional life. But whether the public, or the university, or the student himself, is to be also a gainer by that arrangement, are very different questions.

The University Commissioners anxiously considered the question of the age of graduates ; and the result is, that both they and Her Majesty's Privy Council came to the conclusion that candidates may graduate at twenty-one, if they can. The examinations, as heretofore, will check those who are rash enough to make the attempt, while incompetent. And I feel bound to warn you, from long and extensive knowledge of students, that in the present state of the medical sciences it is not every one who can prove successful at that age, and with only four years of medical study ; and our Faculty records confirm this opinion in the most decisive manner.

A question of great delicacy, which the University Commissioners and Privy Council have solved in the affirmative, relates to the admission of *Extra-academic Medical Study* to qualify for University graduation. On one side of this question stands a certain class of students, who can more easily obtain an extra-academic than a pure academic education, and who,

it is justly said, ought not to be deprived of the option of graduating. On the same side also rank the interests of the extra-academic lecturers. To these considerations some add the interests of the universities themselves, which are thought to derive an indirect advantage from the rivalry established, as well as from the supplementing of ill-filled professorial chairs. On the other side stands the safety of the University Medical Schools, jeopardized, as many think, by a rivalry which brings with it no commensurate advantages.

Opinion in our Senate is divided on this question. So is that of our Medical Faculty. But observe, neither our Senate nor its Medical Faculty has ever in my time—extending over a period of almost forty years—been opposed to the admission of extra-academic lectures on the medical sciences. They declined to admit them by express statute. But so early as 1825 they in point of fact admitted extra-academic study ; 1. By allowing one year of study to count by attendance on hospital practice and practical anatomy, during which they very well knew that the student would fill up his time by attendance upon various subjects of lecture ; and 2. by forbearing to require University attendance twice on any course of lectures whatsoever, thus leaving

to all students the option of taking a most material proportion of their education virtually under extra-academic teachers. But seven years ago, the Town Council of the city—at that time all we had for a University Court—gave express recognition to extra-academic teaching, by admitting it to count for a second year, and by allowing all candidates to study in this way one-third of the subjects enjoined by the University statutes. The University Commissioners in their ordinances have confirmed these recognitions—confining the privilege to the lecturers of the great hospital schools of London, the school of the College of Surgeons of Dublin, and certain lecturers in Edinburgh, who are licensed as teachers by the two medical corporations—requiring however in addition, an express sanction of each henceforth by the University Court,—and subjecting the students of the extra-academic lecturers to the necessity of enrolling themselves as Cives of the University.

Is this a sound measure? I have grave doubts on the subject. Nor is it wonderful that in our Faculty and Senate there should be several opinions about it. My own is, that it does not go far enough. For more than twenty years I have been satisfied, that the chief extra-academic schools of the three capitals should be put on the same footing with the

sister universities ; at which our statutes allow all the years of study but one, and all subjects except two, at the students' own choice, to be freely taken on the same footing as at the University of Edinburgh. But there are certain conditions for rendering this a safe and fair measure when applied in Edinburgh itself. The University Commissioners have adopted two—enrolment of such students in Edinburgh as *Cives* of the University—and sanction of the teachers by the University Court, with the right of withdrawing the privilege, in case of necessity. The third is, that the Professors who now have no salary should receive a moderate one, on account of certain loss ; for long experience has proved to my satisfaction, that a private lecturer in Edinburgh of average parts will always secure a fair proportion of students ; that two teaching the same subject will secure between them a larger number ; and that great superiority on the part of the Professor of the same branch will not prevent, though it will lessen, that result.

The introduction of *Non-professorial Examiners* into the Medical Faculty is an innovation which affects very slightly the candidates of this University. The commissioners have yielded so far to the clamour, which is apt to arise about lax examinations in a body composed entirely of those who

teach their own candidates, as to have added to the twelve members of the Faculty of Medicine three examiners who are not professors. The clamour, so far as Edinburgh may have been concerned in it, was groundless. The remedy will not put an end to it. But the change will be attended with certain conveniences ; and I never could see an adequate reason why our Senate should have resisted it. It was proposed by myself on the occasion of the framing of Sir James Graham's Medical Bill in 1845, and was assented to by our Senate at that time.

The *Fees* under the new system of graduation have not yet been definitely settled. As the stamp-duty on the doctorate is not leviable on the bachelorship or mastership, that source of expense disappears in the case of the minor degrees ; but new expenses will be incurred for the examinations, especially in preliminary studies. Therefore, the cost will probably be twenty pounds.

So much for the changes connected with the requirements and procedure for the two minor medical degrees. The *Privilege* to be attached to them is the right of practising any branch or branches of the medical profession throughout Her Majesty's dominions. And in particular they will qualify, as much as any other professional qualifications, for en-

trance into all the public services. But here an explanation is needed. Any one who may hold the two degrees is legally registrable as a "practitioner in medicine and surgery." Any one so registered, and no other, is legally eligible for any public office, civil or military, which requires a legal qualification in both medicine and surgery. No public body can take less. Any public body is entitled to demand more, if it see fit. But the additional demand ought to be reasonable. It should involve higher acquirements; and it must keep within due bounds in that respect. The governors of an hospital may require that their physicians shall be doctors of medicine, or fellows of a college of physicians, and their surgeons fellows of a college of surgeons; and these would be all suitable and advisable conditions. Were our Army, Navy, or Poor Law Boards, to demand as much, they would ask too much, and would in fact be ill off for candidates. But they may require an examination of their own, and that examination may be competitive. I am not here defending competitive examinations. On the contrary, long experience as an examiner convinces me that the prevailing rage for competitive examinations is a mistake. But it is at present popular; and no man can call it unreasonable. The Army Medical Board has adopted it.

But that Board, and it alone, has latterly also attached the additional demand, that the medical qualification and the surgical one shall be taken from two separate licensing bodies. The reason for this requirement is understood to be the belief, that partial examinations, by purely surgical and purely medical boards, have special advantages. But this belief, in the opinion of those best acquainted with the proceedings of examining boards, is nothing else than a delusion ; and certainly, if it were carried out in practice, it will bring the medical authorities of the Army into very odd positions. For example, there may appear before them applicants for admission from Edinburgh University thus variously qualified :—One offers the bachelorship of medicine of this University, and the license of the Edinburgh College of Surgeons ; both of which are declared to be very good and sufficient qualifications. Another presents the mastership in surgery, and license of the College of Physicians ; and both are admitted to be very good and sufficient qualifications. A third presents the two University degrees, both previously pronounced to be very good and sufficient qualifications. But they unaccountably cease to be so. “ And why,” says the applicant ? “ Because you have had no partial examination.” “ But that is a mistake,—I have undergone as full and dis-

ting an examination, both in medical and surgical science, as is made by any two separate licensing bodies in the United Kingdom. In which branch lies the defect, may one ask?" "That we really cannot tell; but we have a faith in partial examinations. We admit that the Navy Medical Board do not follow our rule; that the India Medical regulations in the Company's time elected graduates without any other qualification, and have left us first-rate medical officers; and that our own predecessors, for forty years past, used to declare that the graduates of Edinburgh were as a class the ablest officers of our own service. Nevertheless, we have a fancy for partial examinations." "But is there not the competitive examination of the Army Medical Department to solve all these nice questions, and check all deficiencies?" "True; but partial examination is a good measure too."

Now, this is an odd and unenviable predicament for a great public department of service to be placed in. I have too high an opinion both of the medical and ministerial heads of the Army Department, to suppose they will not find out that they have been misled. Nor would it be difficult to indicate who have been their interested advisers; for the only real result of such a rule is to throw the licensing for the Army medical service into the hands of certain

medical corporations. Our Medical Faculty however, and also the University Commissioners, have put themselves in communication with the War Office on the subject ; and I shall be much surprised indeed if the error be not soon corrected.*

An important object, attained through means of the minor degrees of bachelor of medicine and master in surgery, is that the Scottish universities will now be able to meet the wish long entertained in England, that the degree of *Doctor of Medicine* should be given on similar terms, as far as possible, to those immemorially required in England. The Scotch Universities' Commissioners have accordingly directed, that no one shall receive that honour until the age of twenty-four, nor unless he shall increase his cultivation of literature and philosophy, nor until he shall spend two years at least in the constant pursuit of medical practice. Many, no doubt, will remain content with the minor degrees ; for these qualify legally for every branch of professional prac-

* The University Commissioners, on 18th May, received an intimation from the Secretary for War, that the War Office had cancelled the obnoxious requirement, and now requires simply that the applicant shall be legally registered with both a medical and a surgical qualification. Nevertheless, there are reasons why the notice taken of the subject in the lecture should remain here.

tice. But at the same time it must be put in the power of all to attain the higher degree, who may desire it. The conditions however are rendered difficult by the circumstance, that a considerable number of our graduates enter into the public services, or settle in the colonies, immediately after receiving a qualifying degree; and that many of these cannot return afterwards to their university, and others not till after a long term of years. It is thus obviously impracticable to enforce a new examination at the university seat, without excluding many deserving possessors of the minor degrees from ever reaching the higher one. Besides, the question arises whether an additional examination is in principle correct. If the candidate be proved competent to exercise the profession of medicine, when he received the minor degree, it is scarcely reasonable to hold him, after a period of years, incompetent till he again prove competency by examination. If it be urged that a doctor of medicine ought to prove more than competency, it is a reasonable answer, that in correct language accomplishment, not competency, is thus demanded; that, while it must be acknowledged fair and reasonable to expect additional accomplishments for the higher degree, it is not indispensable to examine a man in order to satisfy one's self of his

accomplishments; and that, on the contrary, evidence of continued general and professional study, and of general and professional character, are at least equally valid proof, perhaps better.*

Accordingly the University Commissioners have required in their ordinances, besides proof of the cultivation of literature and philosophy, two years of experience in the practice of medicine, either in an hospital, or in the public service, or in private practice of a kind which must afford efficient opportunities; but farther examination is dispensed with. Such has been hitherto very much the rule with the old English universities; and I do not see how more can be required, unless it be a dissertation on some medical subject, declared on honour to be entirely the work of the candidate.

In this branch of the ordinances there is an omission which is to be regretted. Not a few medical students abandon after graduation all view to professional practice, and attach themselves to chemistry, or anatomy, or physiology, or botany, or natural history. Some, having the same object in view from the first, study medicine to acquire a knowledge useful in many ways to a cultivator of these sciences, and also for the sake of an honourable title. Thus it

* See NOTE L.

happens that many distinguished men of science have been doctors of medicine. Medicine has derived lustre from this connection ; a connection which all lovers of the profession of medicine must regret to see broken. But the most important period of life for one to have at his own disposal, who is to devote himself to the cultivation of any science which rests on experiment and observation, is exactly the period which the ordinances, as now worded, would require a candidate for the doctorate to employ almost entirely in the pursuit of medical practice. This rule therefore requires amendment, so as to allow the possessor of the minor degree the option of arriving at the higher one, by producing evidence of his having successfully applied himself for three years to the cultivation and advancement of one or more of the fundamental medical sciences.

Many applications have been made to the medical faculty of this university to learn whether present students, candidates, and doctors, can take advantage of the new system of graduation, so as to obtain a surgical as well as a medical qualification. I am authorized to state in reply, that any present student or candidate, entitled to graduate as doctor according to the late statutes, may put himself under the new rules, and take, even this year, the degrees of bachelor

of medicine and master of surgery, provided he will undergo the preliminary examination in arts ; and that he may in three years more add the degree of doctor by fulfilling the requirements of the ordinances. But no such student or candidate can take advantage both of his right, under the old rules, of passing at once as doctor at twenty-one, and of the new privilege of graduating as master in surgery. I have also authority for stating, that there is no latitude allowed the Senate or Faculty for granting the degree of master in surgery to past doctors of the university. The faculty are inclined to think that there ought to be a year or two's grace to that effect ; and they will petition the commissioners accordingly, if the graduates will strengthen our hands by themselves moving and petitioning also. But it is obviously superfluous for the faculty to take any step of the kind until they learn that the existing graduates themselves desire it. For, since most of them already possess an independent surgical qualification, entitling them to be registered for surgical practice, few can desire the mastership in surgery except as an additional honour.

NOTES.



NOTE A. P. 36.

Leo is supposed to have written his *Chronicon* between 1059 and 1077. If so, he must have lived through the events he describes, and was a monk at Casino when the Carthaginian refugee arrived there; for the entrance of Constantine on his career as a teacher at Salerno is generally put down as not earlier than 1060. *Constantine's* writings appear to have been as numerous as his fame was extensive. He either wrote or translated from eastern tongues, treatises on—1. The Pulse. 2. The Urine. 3. The Eyes. 4. Fevers. 5. Diseases of the Head and Face. 6. Diseases of Internal Organs. 7. Diseases of the Skin. 8. Diseases of the Stomach and Bowels. 9. Diseases of the Liver, Spleen, and Kidneys. 10. The knowledge required of Physicians. 11. How to preserve health, and cure infirmity. 12. Aphorisms. 13. On Simples. 14. On Plants and Species, etc. The clouds of the Middle Ages have unfortunately left us little farther information concerning one who performed no unimportant part in the history of medicine.

NOTE B. P. 37.

For some centuries it was the practice in the middle ages for men of rank, when seriously ill, to repair to Salerno, or to summon the aid of the Salernian physicians. *Du Boulay*, alluding to the tradition, undoubtedly erroneous, that Constantine of Carthage first instituted the Salernian School, observes: "Non est credendum natam fuisse scholam illam Constantini prædictis temporibus [1066 ad 1086]; siquidem jam anno 984 celebris erat, ut indicat *Hugo Favrinianensis* sic scribens de Adalberone Episcopo Virdunense." "In Salernum eodem anno benedictionis suæ curationis gratiâ profectus, reversus in Italia obiit 14 Kal. Maii; et relatum corpus ejus Verduni sepultum est. Vixit in Episcopatu tribus annis, et successit Hyemo anno 988." [Bulæi Hist. Univ. Paris. i. 478.] In the subsequent century the recovery of Duke Robert, King William the Conqueror's brother, who turned aside, when on his way home from the Crusades in 1096, to be treated at Salerno for a wound which threatened to be incurable, led to the well-known dedication of the Carmen Salernitanum to the King of England [*Giannone*, Istoria Civile del Regno di Napoli, lib. x., 1723.] *Romualdus*, Archbishop of Salerno during a part of the twelfth century, relates the following case, easily enough paralleled in our own times. In 1166, William I., King of Sicily and Naples, being seized with a dangerous flux, sent for "Romualdum Salerni-

tanum Archiepiscopum, qui in arte erat medicinæ valde peritus. Qui ad eum veniens circa Pascha, ab ipso honorifice est susceptus, cui multa salutaria medicinæ consilia tribuit. Sed ipse, sui ingenii auctoritate confisus, sibi non nisi quæ ei opportuna videbantur medicamina adhibuit. *Unde* accidit quod hemitritea illum febris invasit; et invalescente passione mortuus est" [Chronicon Romualdi, etc., in *Muratorii* Scriptores, etc., vii. 206.]

NOTE C. P. 40.

The following are the original terms of these remarkable statutes.

"Jubemus in posterum nullum medici titulum prætendentem audere praticari aliter, vel mederi, nisi Salerni primitus et in conventu publico magistrorum judicio comprobatus, cum testimonialibus literis de fide et sufficienti scientiâ, tam magistrorum, quam ordinatorum nostrorum, ad præsentiam nostram, vel, nobis a regno absentibus, ad illius præsentiam, qui vice nostrâ in regno remanserit, ordinatus accedat, et a nobis, vel ab eo, medendi licentiam consequatur.—Tit. xxxiv. 2.

"Præsenti etiam lege statuimus, ut nullus in medicina vel chirurgia nisi apud Salernum vel Neapolim legat in regno, nec magistri nomen assumat, nisi diligenter examinatus in præsentia nostrorum officialium et magistrorum artis ejusdem."—Tit. xxxiv. 4. See *Paulus Cancianus*, etc., referred to in the text.

NOTE D. P. 42.

Certainly the rudiment of a university, but very improbably a university itself, was established some time between 786 and 800, under the name of a *Schola*, in his palace by Charlemagne, either at Paris, or more probably in the first instance at Aix-la-Chapelle, his chief residence and capital. The circumstances are authentic, and very interesting, especially to those mainly concerned with the purpose of the inquiries in the text.

A learned Anglo-Saxon theologian, a Yorkshireman of the name of *Alcuin* or *Alchwin*, happened to be at Charles' court as commercial envoy from one of the kings of the Saxon Heptarchy, when two Scotsmen, *Claud Clement* and *John Melrose* ["sic dictus ab oppido Maelrosio"], also arrived at the capital in company with some English traders. Amidst the ordinary cries of the market-place, the town's-people were surprised to hear the Scotsmen calling out—"Who will buy knowledge? For we have got it to sell." ["Siquis sapientiæ cupidus est, veniat ad nos, et accipiat eam; nam vœnalis est apud nos."] The people thought the men mad. But the incident having reached the monarch's ears, he sent for Clement and Melrose, and asked them whether they really had knowledge to sell, and what they asked for it. They replied that they had, and that its price was—"A place to teach it in, pupils to learn it, and needful food and raiment." Charles came to terms with them; established a *Schola* in his palace under the

charge of Clement and Alcuin ; and taking Melrose with him to his Italian wars, settled him as superintendent of a *Schola* at Pavia, afterwards the university of that city. On returning in a few years to his capital, he received Alcuin and Clement with great favour, and proceeded to witness the examination of his palatial school. As the examination went on, he arranged the good scholars on his right hand, and the bad ones on his left. It turned out in the end, that the former belonged to the middle and humble ranks of his subjects, and that the idle and ignorant were the sprigs of his haughty nobility. Whereupon he rose in great excitement, addressed the right wing with high commendation, and told them he would affectionately look to their interests in life ; and then turning to the left wing, he denounced them with scowls and scorn, and promised them, that, unless they became diligent scholars, no good thing in his gift should ever come their way.

Here were the essentials of graduation. And if Charles, in a moment of inspiration, had bethought him of a *pileus*, a *toga*, a *titulus*, and a *diploma*, he would have been the undoubted inventor of degrees. But no satisfactory trace of degrees has yet been discovered earlier than two centuries at least afterwards.

This romantic narrative appears to be quite authentic. *Du Boulay* has extracted it from one or other of two extant treatises, “*De religiositate et Ecclesiasticâ Domini Caroli curâ*,” and “*De rebus bellicis Caroli magni*,” composed not later than 887—because dedicated to Charles the Gross who died in 888—by *Nokterus Balbulus*, a monk of

the monastery of St. Gall. In the prefaces *Nokterus* says the latter treatise was composed from information communicated by *Adalbert*, son of one of Alcuin's pupils, *Sigulf*, both of them evidently men of note in their day ; and that the former was dictated to him by another man of learning, *Wernbert*, son of the same *Adalbert*. Hence the fundamental authority was one person or another, who must have lived very near the time of the event recorded [*Bulæi*, Hist. Univ. Paris. i. 101, et 640].

NOTE E. P. 45.

In the year 1200 a serious conflict arose betwixt the citizens of Paris and the scholars. A student's servant, sent for wine to a tavern, was attacked there, and beaten, and his wine-flask broken. His angry master, a German noble, Bishop-Elect of Liège, rushed with other German students to the tavern, and beat the tavern-keeper within an inch of his life. Thereupon the Prefect of Paris retaliated by assailing the German College ["*Hospitium Clericorum Teutonicorum*"] with an armed mob of town's-people, and slaying the nobleman of Liège, with others of his countrymen. Philip Augustus, appealed to by the Professors, received the news with high indignation ; imprisoned the Prefect and some ringleaders of the mob ; levelled the houses and rooted out the vineyards and fruit-trees of others who had fled in fear of his wrath ; and condemned the Prefect to undergo the ordeal by fire or water, and if thus cleared, to abjure the realm under the

King's grace. The students, commiserating the prisoners, implored the king that the whole criminals should be let off with a school-whipping at the university. But Philip declined to abate from the dignity of the crown by transferring to others the punishment of his own malefactors. Accordingly the Prefect remained in prison; whence, in dread of the king's vengeance, he endeavoured to make his escape. But, as he was descending a lofty wall by a rope, the rope broke, he fell down headlong, and was killed on the spot.

On this occasion Philip granted by edict to the university that the scholars should not be taken before the secular authorities of the city for delinquencies—"Quod nullus Clericus trahatur ad seculare examen propter aliquod delictum quod fecerit. Sed si Clericus deliquerit, tradatur Episcopo, et secundum judicium Cleri tractetur. . . . Quicumque fuerit Præpositus Parisius, juret quod fidem servabit clericis, salvâ fidelitate Regis. Præterea idem Rex dedit scholaribus firmam pacem suam, et eam eis chartâ suâ confirmavit."

Du Boulay quotes the edict from the university archives, and the narrative from the writings of an English authority, *Roger Houeden*, who lived in the reign of King John. [*Bulæi*, Hist. Univ. Paris. iii. 1.]

NOTE F. P. 46.

Du Boulay, who seems to have gone very minutely into these old legends, observes that some old English

writers claim for Cambridge a foundation by the Saxon king Edward the Elder, son of Alfred, whom he succeeded in 901, reigning till 925 ; that others claim for it an earlier foundation, in 630, by Sigibert, king of the East Angles ; and lastly, that others have advanced pretensions to a foundation, which they even call a restoration only, by the almost mythical Prince Arthur, in the year 581. In support of the last fable, appeal is made, not only to a document professing to be a charter granted and dated by that prince at London—which city never was in his possession—but likewise to a bull of Pope Honorius I., granted in 424, and mentioning Cambridge as then a university, with a chancellor, a rector, doctores, scholares, and all other usual academic distinctions, such as are well known to have had no existence for many centuries afterwards. Du Boulay even gives copies of these documents, which present the customary formalities of royal charters and Papal bulls. Not the least amusing result of this inquiry is, that it ends by assigning, by authority of King Arthur himself, for the real original founder, a certain British potentate, Lucius I., who is assumed to have been the first prince in Britain to embrace Christianity, and who owed his conversion to certain Cambridge *Doctores*, somewhere about the year 180 ! [Bulæi, Hist. Univ. Paris. i. 290.]

NOTE G. P. 51.

On account of the importance of the facts stated in the text relative to the alleged institution of degrees by Pope Eugene III. and his adviser Gratiano, I shall here annex the original statement of *Du Boulay*.

After noticing the publication of Gratiano's "Decretals" about the year 1150, he proceeds thus :—"In Jure Canonico Gratianus primus Epistolarum decretalium collector et compiler statim se prodidit, opusque suum Eugenio Pontifici obtulit. Qui, veritus ne Jus Canonicum vilesceret, propterea quod omnes studiosi ad Civile recens digestum se conferebant, excogitavit, suggerente Gratiano, gradus quosdam Academicos, non tam annorum, quam profectûs, scilicet Baccalaureatûs, Licentiatûs et Doctoratûs, ut hocce specioso titulo studiosos ad Jus Canonicum amplectandum excitaret, et propositis privilegiis accenderet.

"Hanc graduum academicorum originem maxima scriptorem pars agnoscit, primamque in Academia Bononiensi institutionem. Academicorum dico,—nam temporibus Justiniani excogitata est quædam ratio studii in Jure Civili quinquennalis antequam docendi licentia concederetur; et in eo studentes per annos singulos nominibus propriis discreti et distincti sunt. Nam primi anni vocabantur *Justiniani*, quibus scilicet tradebantur Justiniani Institutiones,—secundi anni *Edictales*, qui nempe, post Institutiones, edictis Prætorum vacabant,—tertii anni *Papinianistæ*, qui, consumpto biennio in Institutionibus

et Edictis, transibant ad Papiniani lectionem,—quarti anni *Lytæ*, quasi soluti ab onere scribendi, siquidem illi jam juris nodos solvebant,—quinti anni *Prolytæ*, quasi Licentiati, qui jam per se sine magistris legere et interpretari poterant. Tum demum *Antecessores* et *Doctores* dicebantur, qui scholas ipsi habere et docere poterant.

“Igitur Gratianus, seu Gratiani operâ Eugenius, hosce Juris Civilis Gradus habens præ oculis, similiter in Jure Canonico Gradus Baccalaureatus, Licentiatus et Doctoratus instituit Bononiæ. Quod exemplum imitatus Petrus Lombardus, eosdem quoque Parisiis instituisse dicitur in Theologicâ Disciplinâ, quorum ante ipsum nulla mentio fuit. . . .

“Hancce Graduum Scholasticorum institutionem omnes fere, quotquot de illis scripserunt, ad Gratianum et Lombardum referunt.”

Bulæi, Hist. Univ. Paris. ii. 255.

NOTE H. P. 52.

In the present day, the graduates of Scotland have begun to stir the question, whether they ought not to be empowered to resume the ancient right of graduates to teach, by virtue of their degree. There can be no doubt that in the earliest periods of the old universities, the degrees of *magister* and *doctor* were titles to teach. Whether that character should be resumed in modern times is a disputable point. But the character was considered by some scholars to be so essential, that they held

no man should retain his degree who did not teach. "With what face," says *Nicolas Clemengis*, Ep. 75, T. iv., 890, as quoted by *Crevier*, in his "History of the University of Paris," "can he wish to be thought doctor, who does not teach? It is an idol, and not God, which is worshipped, but has not the might of God. In like manner, is he not rather an idol than a *magister*, who, without the essence and end of the mastership, plumes himself on a bootless refinement, a hollow honour, and a bare name?" *John Quintin*, an eminent law professor in the sixteenth century, was so impressed with the truth of this doctrine, as to declare that those who did not teach, ought not to enjoy the rights granted to doctors. [*Crevier*, *Histoire de l'Université de Paris*, vii. 151.]

The simple truth, however, was that the *doctores* became too numerous for the *scholares*, and that, consequently, a large proportion finding no pupils forthcoming, were rather deserted by their function, than deserters of it; and that thus arose the class of graduate doctors, not professors.

NOTE I. P. 56.

The authority by which the University of Cambridge grants degrees does not rest on any Papal Bull, or Royal Charter, now extant. It may be that, when King Henry VIII. seized the charters of the monasteries and universities, there were among them some belonging to Cambridge, which the king did not return, and which might have contained papal or royal grants for conferring degrees.

But this is all mere conjecture. There are old University statutes regulating the conditions for conferring degrees, and which consequently assume the pre-existence of the right to confer them. But, for anything now known, they originated in custom, and not in any State or Church authorization. Among others, a surgical degree, though not mentioned by express name, is clearly indicated as pre-existing by the statutes laying down the conditions for conferring the right of practising surgery.

Thus, the following regulation is found in the University Statutes of 1549, in the reign of King Edward VI. : "*Medicina*—*Medicinæ Chirurgiæque studiosus sex annos rem medicam discet ejus lectionis auditor assiduus. Anatomias duas videat bis disputet semel respondeat antequam baccalaureus fiat. Et duas anatomias faciat tres ad minimum curationes se fecisse probet antequam admittatur ad Praxin Chirurgiæ.*" And in 1559 and 1570, this regulation is repeated in the same terms in the reign of Queen Elizabeth [*Statuta Academiæ Cantabrigiæ*, pp. 149, 181, 233. Ed. 1785].

For the information in this note I am indebted to Dr. Paget ; who adds, that statutes have passed the Senate of Cambridge for granting now the degree of Master in Surgery ; and that the statutes have been sanctioned by the English University Commissioners.

NOTE K. P. 62.

As this Bull is of great importance, the particulars relative to graduation are here annexed.

After the usual preamble, the Pope declares that the King had prayed, “ quod in dictâ civitate veteri Aberdonensi de cætero sit, et perpetuis futuris temporibus vigeat Studium Generale, et Universitas existat studii generalis, tam in Theologiâ, ac Jure Canonico et Civili, necnon Medicinâ et Artibus Liberalibus, quam quâvis aliâ licitâ Facultate, in quibus, sicut in Parisiensi et Bononiensi, et quibusvis aliis generalibus studiis ad hoc privilegiatis, ecclesiastici quicunque, qualiaque beneficia ecclesiastica obtinentes, et laïci Magistri et Doctores doceant, et studere volentes, undecunque fuerint, studeant et proficiant, ac bene meriti Baccalaureatus, Licentiatus, Doctoratus et Magisterii, ac quoscunque alios gradus et insignia recipere, illaque eis impendi libere et licite valeant, statuere et ordinare, ac ipsum studium ibidem erigere et instituere, aliasque in præmissis opportune providere, de benignitate dignemur.

* * * statuimus et ordinamus quod in dictâ civitate, veteri Aberdonensi, de cætero sit, et perpetuis futuris temporibus vigeat studium generale, et Universitas existat studii generalis, tam in Theologiâ, ac Jure Canonico et Civili, necnon Medicinâ et Artibus Liberalibus, quam quâvis aliâ licitâ Facultate, in quibus sicut in prædictis et quibusvis aliis studiis generalibus ad hoc privilegiatis, ecclesiastici quicunque, qualiaque beneficia ecclesiastica obtinentes, et laïci Magistri et Doctores, legant et

doceant, ac studere volentes, undecunque fuerint, studeant et proficiant, ac benemeriti gradus et insignia recipere, illaque eis impendi valeant, ipsorumque studium ibidem eâdem auctoritate erigimus et statuimus. [*Fasti Aberdonenses*, published by the Spalding Club, 1854, p. 4; or *Report of a Royal Commission of Inquiry into the State of the Universities of Scotland, 1831. Evidence*, iv. 129.]

NOTE L. P. 82.

I cannot refrain from adding here my voice to the few which have been already raised against the present popular clamour for Examination, as both an essential and sufficient test of qualification in almost all imaginable circumstances. I have been an examiner since 1832, and must have had 2250 candidates through my hands in the last twenty-nine years, besides acting for five years as Dean of the Medical Faculty of the University. The conclusion I have been forced to by this ample experience is, that in not a few instances an examination is no test of proficiency—taken singly, and without a knowledge of the candidate's character as a student: That, owing to confusion of mind, not apparent to the examiners, or slowness of thought, or difference in manner of education between examiner and examinee, or peculiarity of manner on the part of the examiner, an able candidate will not seldom fail to give satisfaction: And that no examination will prove a candidate's judgment, discretion, steadiness, and conduct,—which are most important requirements, especi-

ally for appointments in the public service, for which peculiarly a competitive examination is now the grand test. I have again and again known young men totally fail without any apparent confusion of mind to account for it, as if a mist had suddenly veiled their faculties, but who passed most creditably in a day or two, when allowed another trial on account of their known diligence as students ;— and I am acquainted with men, deservedly much esteemed in the public medical services, who, after repeated failures, owing to slowness of thought or hesitation, were enabled to graduate in a future year, more because their examiners possessed other knowledge of their proficiency, than for positive proof of it furnished in the examination-hall—and who never could have stood a competitive trial.

In regard to the special question in the text, the expediency of an examination test for an advanced degree, after a full examination for a minor degree in every branch of medical science and practice—it appears to me, that when a student has passed such an examination for his minor degree, and has thus arrived at the period of life, the proper employment of which will prove the turning point for him of future professional success, he cannot be too completely freed from all trammels of form and discipline, which will prevent him from studying according to what he knows of his own deficiencies, and, above all, according to his special object in professional life. An examination in his view, in such circumstances, is fatal to all freedom in the pursuit of knowledge. Examinations should end with school-life.

